

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

DENNIS D. BROOKS,
BARBARA D. BROOKS,
GREENVILLE COUNTY TAX
COLLECTOR,
COACH HILLS HOMEOWNERS
ASSOCIATION, INC., and
SOUTH CAROLINA DEPARTMENT
OF REVENUE,

Defendants.

Case No. 6:17-cv-02010-TMC-JDA

**UNOPPOSED¹ MOTION TO STAY
OR EXTEND TIME FOR TRIAL
AND FINAL PRETRIAL
DEADLINES**

Plaintiff, the United States of America, respectfully requests that the Court stay or extend the trial and remaining pretrial deadlines in this case until it has ruled on the United States' motion for summary judgment. (ECF No. 111.) The United States timely filed its motion within the deadline established by the Court's Consent Amended Scheduling Order. (ECF No. 43.) The Court granted Defendants Dennis and Barbara Brooks an extension to respond to that motion, and briefing on that motion was completed just last week with the magistrate judge now recommending that the motion be granted. (ECF Nos. 122, 125, 142, 147, 152, 153, 158, 160.) How the Court rules on that motion may alter or affect the nature of the remaining filings the parties make, and if

¹Because Defendants Dennis and Barbara Brooks are not represented, the United States is not required to confer with them regarding the relief sought by this motion pursuant to Local Civil Rule 7.02 (D.S.C.). Also, notwithstanding the stipulation among the United States, the South Carolina Department of Revenue (“SCDOR”) and the Greenville County Tax Collector (“Greenville County”) (ECF No. 52), the United States has notified those parties of its intent to seek the relief sought by this motion, and counsel for both such defendants have indicated they have no objection to the relief sought here.

the Court grants the motion, trial—and the remaining pretrial deadlines—will be rendered unnecessary. Therefore, the Court should stay the trial of this case, which is set for the January trial term, and extend the remaining pretrial deadlines until after it has ruled on the summary judgment motion.

The United States filed its complaint in this action on July 28, 2017, seeking to reduce to judgment Dennis Brooks' federal income tax liabilities for the years 2000, 2005 through 2007, and 2011 and foreclose federal tax liens on real property owned by Dennis and Barbara Brooks. (ECF No. 1.) After SCDOR and Greenville County answered and appeared in the case, the Brookses filed a *pro se* answer to the Complaint on September 12. (ECF No. 14.) The Court entered its Consent Amended Scheduling Order on December 12, 2017. The United States, SCDOR and Greenville County have stipulated as to their respective priorities in the real property that is the subject of this action, so the only remaining issues for resolution are between the Brookses and the United States. (ECF No. 52.)

The United States timely filed a motion for summary judgment within the deadline established by the Court's scheduling order, and briefing on summary judgment was just completed on December 13. (ECF Nos. 111, 142, 158.) Today, the magistrate judge issued her Report and Recommendation that the United States' motion be granted. (ECF No. 160.) Defendants now have fourteen days to make any objections they may have to that report. (ECF No. 160-1.) Nevertheless, the Court's Consent Amended Scheduling Order specifies that this case will be tried in the term beginning on January 2. (Sched. Order ¶ 12.) The Court has not yet entered a Bar Meeting Order or Notice specifying that the trial will actually occur during that month, and indeed, it would seem premature to proceed while the summary judgment motion remains pending. The scheduling order also directs the parties to file motions in limine "two weeks

prior to jury selection, . . . to furnish the Court pretrial briefs seven (7) days prior to the date set for jury selection, [and for] Attorneys to meet at least seven (7) days prior to the date set for submission of pretrial briefs for the purpose of exchanging and marking all exhibits.” (Sched. Order ¶¶ 10-11.) These deadlines are now impending in light of the January 2 trial date in the scheduling order.

The Court should relieve the parties from these requirements until after it decides the pending motion for summary judgment. Under Federal Rule of Civil Procedure 6(b), the Court “may, for good cause, extend the time” in which parties have to take certain actions. There is good cause for the stay being sought here. Indeed, upon a thoughtful review of the record, the magistrate judge has concluded that trial—and any remaining pretrial filings—will not even be necessary. Regardless, Defendants must be given the opportunity to submit any objections they have to her report before the Court either accepts or rejects it. Then, even if the motion is not ultimately granted, counsel and the pro se parties must consider whatever the Court decides in ruling on the summary judgment motion in preparing any motions in limine and the other pretrial filings. In such an event, a ruling may narrow the issues for trial and alter or limit the nature of any pretrial filings. Granting the stay will also not prejudice Defendants, who will also benefit from the increased time and clarity to make any pretrial filings. All of these reasons constitute good cause for the Court to stay or extend the trial date and any remaining pretrial deadlines until it has ruled on the motion for summary judgment. Thus, the Court should exercise its discretion, and grant the stay sought here.

Respectfully submitted,

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